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SERVICE DATE – MARCH 15, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36675]

Chicago Rock Island & Pacific Railroad LLC—Continuance in Control Exemption—

Ottawa Northern Railroad LLC

Chicago Rock Island & Pacific Railroad LLC (Rock Island), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Ottawa Northern Railroad LLC (ONR), a noncarrier controlled by Rock Island, upon ONR's becoming a Class III rail carrier. According to the verified notice, the proposed transaction will allow Rock Island to continue to exercise common control of ONR and Rock Island's existing subsidiary, Gulf & Ship Island Railroad LLC (G&SI), a Class III rail carrier that operates in the state of Mississippi.¹

This transaction is related to a concurrently filed verified notice of exemption in Ottawa Northern Railroad—Acquisition & Change in Operator Exemption—Midland Historical Railway Ass'n, Docket No. FD 36674, in which ONR seeks to acquire and begin common carrier operations over approximately 11.09 miles of rail line owned by the Midland Historical Railway Association between milepost 14.95 near Baldwin City,

¹ Rock Island notes that the notice of exemption filed in Chicago, Rock Island & Pacific Railroad—Continuance in Control Exemption—Gulf & Ship Island Railroad, Docket No. FD 36520, mistakenly lists "Mississippi Delta" as a Class III carrier under Rock Island's control. Rock Island explains that "Mississippi Delta" is a trade name for Rock Island's contract carriage north of Swan Lake, Miss., and not a railroad common carrier.

Kan., and milepost 26.04 at Ottawa, Kan., replacing Leavenworth, Lawrence & Galveston Railroad d/b/a the Baldwin City & Southern Railroad Company as the common carrier service provider on that line.

Rock Island represents that: (1) the rail line to be operated by ONR does not connect with Rock Island's lines or any of G&SI's lines; (2) the control transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323 pursuant to 49 C.F.R. § 1180.2(d)(2).

The transaction may be consummated on or after March 29, 2023, the effective date of the exemption (30 days after the verified notice was filed).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. § 11326(c) does not provide for labor protection for transactions under 49 U.S.C. §§ 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 22, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36675, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Rock Island's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to Rock Island, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: March 9, 2023.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.